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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/066,928

02/04/2002

Richard R. Hanley

P/3460-3

4343

7590

12/13/2004

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EXAMINER

NGUYEN, HUY D

ART UNIT

PAPER NUMBER

2681

DATE MAILED: 12/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/066,928

Applicant(s)

HANLEY, RICHARD R.

Examiner

Huy D Nguyen

Art Unit

2681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2002.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
5) ☐ Claim(s) ____ is/are allowed.
6) ☒ Claim(s) 1-6, 8-21 and 23-29 is/are rejected.
7) ☒ Claim(s) 7 and 22 is/are objected to.
8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 20041201.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-6, 8-11, 13, 16-21, 23-24, 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Aijala et al. (U.S. Patent No. 5,579,124).

Regarding claims 1, 16-17, Aijala et al. teaches a method for electronically ordering broadcast content for subsequent delivery thereof, comprising the steps of: receiving a broadcast electronic transmission including coded information identifying the content of the broadcast transmission at a consumer location; decoding the coded information identifying content at the consumer location; and at consumer selection, automatically transmitting to an order fulfillment center an order for selected content based upon the decoded information which uniquely identifies the selected content (Col. 3, lines 11-44; Abstract).

Regarding claims 2, 23, Aijala et al. teaches the method defined in claim 1, wherein the coded information is embedded inaudibly and invisibly in the broadcast transmission, the decoded information being transmitted via a communication link from the consumer location to the order fulfillment center for fulfilling an order from a consumer (Col. 3, lines 11-18).

Regarding claim 3, Aijala et al. teaches the method defined in claim 2, wherein the communication link comprises one of a wireless communication network, wired communication network and a combination thereof (Col. 8, lines 11-18).

Regarding claims 4 and 9, Aijala et al. teaches the method defined in claim 2, wherein the order is transmitted immediately upon identifying the selected content (Col. 15, line 61 – col. 16, line 7).

Regarding claims 5, 13, Aijala et al. teaches the wherein the decoded information is displayed at the consumer location before transmitting the decoded information to the order fulfillment center (Col. 16, lines 62-67).

Regarding claims 6, 21, Aijala et al. teaches the method defined in claim 1, further comprising the steps of storing the decoded information at the consumer location, selecting at least other content by decoding and storing respective decoded information identifying the at least one other content, and transmitting the stored decoded information as a custom order to the order fulfillment center (Col. 3, lines 11-44).

Regarding claims 8, 24, Aijala et al. teaches the method defined in claim 6, further comprising the step of transferring the custom order to a broadcast content consolidator wholesaler to record the at least one and other selected content together (Col. 3, lines 11-44).

Regarding claim 10, Aijala et al. teaches the method defined in claim 1, further comprising the step of transmitting information concerning a method of recording of the at least one selected content comprising recording the selected work on one of a tape, CD, DVD and a combination of these along with the decoded information to the order fulfillment center (Col. 7, lines 10-24).

Regarding claim 11, Aijala et al. teaches the method defined in claim 1, further comprising the step of delivering the at least one selected content to the consumer upon receiving the order by one of delivering the selected content to a home address, delivering to a retail outlet,

downloading it on a PC located at the consumer location or at a distance therefrom, and a combination of these (Col. 3, lines 11-44).

Regarding claims 18-19, Aijala et al. teaches the system defined in claim 16, further comprising a display coupled to the content code interpreter and operative to display the decoded information of the at least one selected content transmitted via a communication link which comprises one of a wired communication network, wireless communication network and a combination thereof (Col. 16, lines 62-67).

Regarding claim 20, Aijala et al. teaches the system defined in claim 16, wherein the content code decoder interpreter operative to indicate whether the transmitted are being encoded (Col. 3, lines 11-44).

Regarding claim 27, Aijala et al. teaches the system defined in claim 24, wherein the computerized system of the order fulfillment center has software for tracking the recording and delivery of the consumer order (Col. 3, lines 11-44).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 12, 14, 25-26, 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aijala et al. in view of Mankovitz (U.S. Patent No. US RE38600).

Regarding claims 12, 25-26, Aijala et al. teaches the method defined in claim 1 except the step of registering a consumer at the order fulfillment center such that the consumer is assigned a PIN for automatically authenticating the consumer transmitting the decoded information, and a consumer deposit account which is identified upon verification of the PIN, and the step of automatically charging the deposit account upon receiving the order. However, the preceding limitation is taught in Mankovitz (Col. 38, lines 57-67; Col. 39, lines 1-36). It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Mankovitz to the teaching of Aijala et al. to improve system security.

Regarding claims 14, 28, Aijala et al. teaches the method defined in claim 1 except that the step of receiving comprises receiving at a consumer location via a radio means apparatus in a mobile vehicle. However, the preceding limitation is taught in Mankovitz (Col. 1, lines 33-44). It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Mankovitz to the teaching of Aijala et al. to improve system capability.

5. Claims 15, 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aijala et al. in view of Zhang (Pub. No. US 2002/0065034).

Regarding claims 15, 29, Aijala et al. teaches the method defined in claim 1 except that the step of automatically transmitting comprises transmitting via a cellular communications link. However, the preceding limitation is taught in Zhang (paragraph 0082). It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Zhang to the teaching of Aijala et al. to improve system capability.

Allowable Subject Matter

6. Claims 7 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding claim 7, Aijala et al. teaches the method defined in claim 6. However, Aijala et al. fails to teach the step of selecting the order of the recordings of the at least one and other selected content, deleting any of the selected contents and changing the order of positioning before transmitting the custom order to the order fulfillment center.

Regarding claim 22, Aijala et al. teaches the system defined in claim 16. However, Aijala et al. fails to teach that the content code interpreter is operative to recognize the voice of the consumer identifying a method of delivery of a recorded copy of the selected content, the method of delivery comprising one of mailing the recorded copy to a home address of the consumer or to a retail outlet, and downloading the selected content on a PC via the Internet.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huy D Nguyen whose telephone number is 703-305-3283. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Hudspeth can be reached on 703-308-4825. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2681

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

bn

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